

# **EXHIBIT    A**

CAROL C. FITZGERALD  
CLERK  
BY Roberts  
DEPUTY

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA  
RENO, NEVADA

RECEIVED  
AND FILED

UNITED STATES OF AMERICA, et al.,

VS.

WALKER RIVER IRRIGATION DISTRICT,  
et al.

IN EQUITY NO. C-125

MINUTES OF THE COURT

DATE: April 9, 1990

PRESENT: EDWARD C. REED, JR. U.S. District Judge

Deputy Clerk: DEBBIE ROBERTS Reporter: NONE APPEARING

Counsel for Plaintiff(s) NONE APPEARING

Counsel for Defendant(s) NONE APPEARING

MINUTE ORDER IN CHAMBERS

On April 9, 1990, this Court adopted the Administrative Rules and Regulations Regarding Change of Point of Diversion, Manner of Use or Place of Use of Waters of the Walker River and Its Tributaries (document #161 Exhibit A), and entered its Order of Appointment of the California State Water Resources Control Board as Special Master (document #161 Exhibit B). The Administrative Rules and Regulations were adopted with one modification made by the Court on page 13 of Exhibit A.

IT IS, THEREFORE, HEREBY ORDERED that the Clerk shall provide copies of Exhibits A and B to document #161 to the parties to this action.

CAROL C. FITZGERALD, CLERK

By Debbie Roberts  
Deputy Clerk

EXHIBIT A

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EXHIBIT B

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEVADA

UNITED STATES OF AMERICA,	)	IN EQUITY NO. C-125
	)	
Plaintiff,	)	
	)	
WALKER RIVER PAIUTE TRIBE,	)	
	)	
Intervenor-Plaintiff,	)	
	)	
vs.	)	ORDER OF APPOINTMENT
	)	OF CALIFORNIA STATE
WALKER RIVER IRRIGATION DISTRICT,	)	WATER RESOURCES BOARD
a corporation, et. al.,	)	AS SPECIAL MASTER
	)	
Defendants.	)	

1. On July 15, 1987, the United States Board of Water Commissioners and the Chief Deputy Water Commissioner filed a petition herein for an order establishing the procedure, rules and regulations to be followed with respect to changing the point of diversion, manner of use or place of use of the waters of the Walker River and for the appointment of the California State Water Resources Board as special master with respect to changes involving water rights in California.

2. The United States and the Walker River Paiute Tribe filed objections to the proposed rules and regulations and to the appointment of the California State Water Resources Control Board as special master.

1       3. The Court having heard the arguments of counsel and  
2 having rendered its decisions on May 17, 1988, July 7, 1989 and  
3 September 11, 1989, hereby makes the following order:

4                               PREFACE

5       Neither this Order nor the Administrative Rules and  
6 Regulations affect the authority or duties of the United States  
7 Board of Water Commissioners to the extent that it may be deemed  
8 to be a special master under the Walker River Decree. To the  
9 extent that the duties assigned hereunder to the California State  
10 Water Resources Control Board may constitute duties formerly  
11 assigned to the United States Board of Water Commissioners, the  
12 United States Board of Water Commissioners shall no longer have  
13 such duties assigned to it.

14                               I. APPOINTMENT

15       1. Pursuant to:

16               (a) the Administrative Rules and Regulations Regarding  
17 Change of Point of Diversion, Manner of Use or Place of Use of  
18 Waters of the Walker River and Its Tributaries, approved by the  
19 court on April 9, 1990;

20               (b) the Final Decree in the Walker River Action entered  
21 on April 15, 1936, as amended on April 20, 1940, and in particular  
22 paragraphs X, XIV, and XV thereof;

23               (c) Rule 53 of the Federal Rules of Civil Procedure;  
24 and

25               (d) Sections 2075 and 2076 of the Water Code of the  
26 State of California;

1 the California State Water Resources Control Board is hereby  
2 appointed as Special Master in this action.

3 II. GENERAL DUTY AND LIMITATION

4 2. The Special Master shall submit a report to this court  
5 for each change application, in the form and manner and pursuant  
6 to the procedure hereinafter provided, on any and all changes  
7 proposed in point of diversion, manner of use, or place of use,  
8 in exercise of those rights to the use of waters of the Walker  
9 River and its tributaries within the State of California  
10 established by the final decree in this action and any decree  
11 supplementary thereto.

12 III. UNAPPROPRIATED WATERS

13 3. This Order shall not govern applications to appropriate  
14 unappropriated waters of the Walker River or its tributaries in  
15 the State of California, except as provided in this paragraph.  
16 With respect to any such applications, it is the intent of this  
17 Court that such applications be processed in accordance with the  
18 laws of the State of California relating to the appropriation of  
19 unappropriated water; provided, first, that in the event any such  
20 application is approved, and following final judgment of the  
21 courts of the State of California should judicial review of such  
22 approval be sought therein, the Special Master shall timely move  
23 this Court for entry of a supplemental decree in this case  
24 recognizing any rights granted as the result of approval of such  
25 application; and, provided, second, that this Order shall govern  
26 changes proposed in point of diversion, manner of use, or place  
27  
28

1 of use, in exercise of any such rights recognized in a  
2 supplemental decree.

3 IV. PROCEDURE TO BE FOLLOWED

4 4. In processing all applications to change the point of  
5 diversion, manner of use or place of use ("change application"),  
6 the Special Master shall follow and require applicants to follow  
7 the Administrative Rules and Regulations Regarding Change of Point  
8 of Diversion, Manner of Use or Place of Use of Water of the Walker  
9 River and Its Tributaries (the "Administrative Rules and  
10 Regulations").

11 V. ADDITIONAL POWERS OF SPECIAL MASTER

12 5. The Special Master may hold any hearings and conduct any  
13 investigations in any part of the State of California or the State  
14 of Nevada necessary to carry out its duties pursuant to this  
15 Order. For such purposes the Special Master shall have (i) the  
16 powers conferred on Masters by the Federal Rules of Civil  
17 Procedure, and (ii) the power conferred on it, as California State  
18 Water Resources Control Board, by the laws of the State of  
19 California and by rules and regulations heretofore or hereafter  
20 adopted by it as California State Water Resources Control Board  
21 pursuant to such laws, so long as such proceeding affords all  
22 parties due process of law, and except as expressly otherwise  
23 provided in this Order. It is the duty of the Special Master to  
24 proceed with all reasonable diligence.

25 VI. REPORT

26 6. Form of Report. The report of the Special Master may  
27 be in narrative form, or in the form of findings of fact and  
28

1 conclusions of law, or in some combination thereof, as deemed  
2 appropriate by the Special Master in view of the complexity of the  
3 factual and legal issues presented by the Application to Change.  
4 The report may contain such opinion upon the law and the facts as  
5 the Special Master deems appropriate in view of the issues  
6 presented.

7       7. Draft Report. Before filing its report as hereinafter  
8 provided, the Special Master shall announce it in the form of a  
9 draft.

10           a. The draft report shall include copies of the  
11 following:

12                   (1) The Application to Change;

13                   (2) The Notice of Application to Change, together  
14 with proof of publication thereof and a list of all persons to  
15 whom a copy of the Notice was mailed;

16                   (3) Any protest(s) to the Application;

17                   (4) Any notice(s) of hearing.

18           b. The Special Master shall mail notice of the draft  
19 report, together with a copy of the draft report, to the parties  
20 to the change proceedings or their attorneys.

21           c. Within 30 days after the date of the mailing of the  
22 draft, or within such further time as the Special Master may for  
23 good cause allow, any such party may file objections to it with  
24 the Special Master.

25           d. The Special Master shall consider any objections  
26 and may hold an adjudicatory hearing thereon if deemed advisable  
27 by it.

28

1       As used in this section the word "party" shall mean and refer  
2 to any person who appears or is allowed to appear in any  
3 proceeding before the Special Master.

4       8. Adopting, Filing and Serving Report.       Following  
5 consideration of any objections to the draft report, the Special  
6 Master shall take the following actions:

7           a.   The Special Master shall adopt the Report of  
8 Special Master pursuant to the laws of the State of California  
9 governing the taking of action by the Special Master as California  
10 State Water Resources Control Board.

11           b.   The Report of Special Master shall consist of the  
12 draft report showing any changes made therein as the result of  
13 consideration of objections, and copies of any objections to the  
14 draft report.

15           c.   The Report of Special Master shall be served and  
16 filed in accordance with Section 6.3 of the Administrative Rules  
17 and Regulations.

18       9. Effect of Report.   The report of the Special Master  
19 shall not be final and its findings shall not be given presumptive  
20 effect. In review of any report and recommendation as to a change  
21 application rendered by the Special Master, the court shall not  
22 be limited by the "clearly erroneous" standard prescribed by  
23 Fed.R.Civ.P. 53(e)(2) and all matters referred to the Special  
24 Master shall be open for determinations by the court as if no  
25 findings had been made.



VII. COMPENSATION OF SPECIAL MASTER

10. Pursuant to Rule 53 of the Federal Rules of Civil Procedure, this Court fixes the compensation to be allowed to the Special Master for discharge of its duties pursuant to this Order as follows: The Special Master shall not be entitled to any fee for its services but shall be paid or reimbursed the total expenses incurred by it which are properly chargeable to the reference. The Special Master's Report shall include a statement of the total expense and shall equitably apportion the total expense among the parties to the agency proceeding.

DATED this 9<sup>th</sup> day of April, 1990.

Edward C. Reed.  
UNITED STATES DISTRICT JUDGE